

## **REMARKS/ARGUMENTS**

**This amendment includes a Change of Address for the legal representative from Jay L. Chaskin, General Electric Company, 3135 Easton Turnpike - W3C, Fairfield, CT 06431 to Jay L. Chaskin, Cantor Colburn LLP, 55 Griffin Road South, Bloomfield, CT 06002.**

### **Status of the Application:**

#### **Status of the Claims:**

Claims 1, 3 to 16 and 18 to 47 have been presented for examination. Claims 1, 15, 16 and 33 are objected because of antecedent basis issues. Claims 4, 6, 8, 9, 11, 13, 14, 25 to 27 and 41 to 43 are objected to because of claim dependency issues. Claims 1, 3 to 8, 16, 18 to 23, 29, 33 and 35 to 39 are rejected under 35 USC 102(e) as being anticipated by Charles, US 6,816,564. Claims 28, 30 to 32 and 44 to 47 are rejected under 35 USC 103(a) as being unpatentable over Charles. Claims 9 to 15, 24 to 27 and 40 to 43 are objected to as being dependent upon a rejected base claim but otherwise recites allowable subject. Claims 13 to 15, 25 to 27 and 41 to 43 are allowed by virtue of their dependency.

**Status of the priority claim:** The Examiner has acknowledged receipt of a certified copy of the application under 35 USC 119(a)-(d).

**Status of the Information Disclosure Statement:** The Examiner has acknowledged receipt of the two Information Disclosure Statements filed by the applicant.

**Status of the Drawings:** The drawings filed 13 March 2002 are accepted.

**Objection to claims 1, 4, 6, 8, 9, 11, 13 to 16, 25 to 27, 33 and 41 to 43.** The antecedent basis of the noted terms and phrases in claims 1, 15, 16, 25 to 27 and 33 has been amended to overcome the objection. Claims 4, 6, 8, 9, 11, 13, 14, 25 to 27 and 41 to 43 are amended to overcome the dependency objection.

In addition, claim 22 has been amended to correct a typographical error; claims 36 and 37 are amended to recite the proper statutory class for the preamble; claims 3, 14 and 41 to 43 are amended to correct a typographical error.

**Rejection of claims 1, 3 to 8, 16, 18 to 23, 29, 33 and 35 to 39 under 35 USC 102(e) as being anticipated by Charles, US 6,816,564 and rejection of claims 28, 30 to 32 and 44 to 47 under 35 USC 103(a) as being unpatentable over Charles.**

Claim 1 is amended to recite the subject matter of claim 9. Claim 9 (and claims 10 to 12) has been indicated as reciting allowable subject matter. Claims 9 to 12 have been canceled. Claim 13 has been amended to be dependent on claim 1. Claim 20 is amended to recite the subject matter of claim 24. Claim 24 (and claims 25 to 27) has been indicated as reciting allowable subject matter. Claim 24 has been canceled. Claim 33 has been amended to recite the subject matter of claim 40. Claim 40 (and claims 41 to 43) has been indicated as reciting allowable subject matter. Claim 40 has been canceled. Claim 6 has been canceled. Accordingly, claims 1, 3 to 5, 7, 8, 13 to 16, 18 to 23, 25 to 39, and 41 to 47 are considered allowable.

**Rejection of claims 1, 3 to 8, 16, 18 to 23, 29, 33 and 35 to 39 under 35 USC 102(e) as being anticipated by Charles, US 6,816,564 and rejection of claims 28, 30 to 32 and 44 to 47 under 35 USC 103(a) as being unpatentable over Charles.**

The applicant questions whether Charles is prior art. Charles was filed as a provisional US application on November 8, 2000 and subsequently as a PCT application designating the US on November 8, 2001. Under 35 USC 371 the filing date of the US national stage is October 21, 2003. The PCT application was published on May 16, 2002 and the US application was published on April 22, 2004.

The present application is entitled to a priority date of March 28, 2001. This date is earlier than the earliest date Charles is entitled to as prior art. The earliest filing date that Charles is entitled to under 35 USC 371 is October 21, 2003. The earliest publication date that Charles is entitled to May 16, 2002. Even the PCT filing date of November 8, 2001 is later than the applicant's priority date. It is submitted that Charles is not entitled to filing date of November 8, 2000 for purposes of 35 USC 102(e). The November 8, 2000 date is personal to Charles and cannot be used as a filing date for purposes of prior art against others.

Accordingly, claims 1, 3 to 5, 7 to 16, and 18 to 47 amended as of 06 December 2004 are patentable and allowable over Charles. These claims have been presented as

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new claims 48 to 91 and have amended to take into consideration the Examiner's observations regarding claim dependency and antecedent basis.

In view of the amendments to the claims, Applicant respectfully requests reconsideration and withdrawal of all objections and/or rejections under 35 U.S.C. §102(e) and 35 U.S.C. §103(a) that Applicant considers to be traversed. The Applicant respectfully requests that the Examiner reconsider and withdraw all of these rejections and respectfully requests a timely Notice of Allowance with respect to claims 1, 3 to 5, 7, 8, 13 to 16, 18 to 23, 25 to 39, and 41 to 91. The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 50-2513.

Respectfully submitted,

VAILLANT ET AL.

By 

Jay Chaskin

Attorney for Applicant

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